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APPLICATION OF

**VIRGINIA ELECTRIC AND POWER
COMPANY**

CASE NO.PUE000584

**For approval of a Functional Separation
Plan under the Virginia Electric Utility
Restructuring Act**

HEARING EXAMINER'S RULING

August 7, 2001

On July 19, 2001, the Virginia Cable Telecommunications Association ("VCTA") filed a Motion to Compel ("Motion to Compel") Virginia Electric and Power Company ("Dominion Electric Power" or the "Company") to respond to certain discovery requests made by the VCTA. On July 25, 2001, the Company filed a Response wherein it objected to the data requests on the grounds that the information requested is immaterial to the proceeding and is not reasonably calculated to lead to the discovery of admissible evidence.

By Hearing Examiner's Ruling dated August 1, 2001, VCTA's Motion to Compel was granted and the Company was directed to provide the data requested within five business days of the filing of the Ruling.

On August 3, 2001, the Company, by counsel, filed an Exception to Ruling and Motion for Stay and Certification ("Exception and Motion for Stay") requesting, pursuant to Rule 5 VAC-20-120.B¹ of the Commission's Rules of Practice and Procedure, a stay of the Ruling of August 1 and certification of this matter to the Commission for review. On August 6, VCTA filed a Response to the Company's Exception and Motion for Stay ("VCTA Response") in which it opposed the Company's request. In support, VCTA points out that its comments must be filed by August 15, leaving little time for preparation if the Company's motion is granted. VCTA argues the Company's actions are intended to preclude VCTA from meaningful participation in this case.²

I find the Company's Exception and Motion for Stay should be *denied*. First, the Commission Order of February 22, 2001, directs that any adjudication should be made with due regard for the timetable for this proceeding.³ VCTA's comments are due August 15, 2001, and any further delay will disrupt that timetable. Second, the Company has not shown that it will be

¹ Rule 5 VAC 5-20-120 states in pertinent part: "Upon the motion of any party or the staff, or upon the hearing examiner's own initiative, the hearing examiner may certify any other material issue to the commission for its consideration and resolution."

² VCTA Response at 3.

³ Order at 16.

harmful by providing the requested data. Further, if the information is introduced at the hearing, the Company can argue its relevance at that time. Accordingly,

IT IS DIRECTED THAT:

- (1) The Company's Exception and Motion for Stay is denied; and
- (2) The Company shall provide the data requested by VCTA by 5:00 p.m. on August 9, 2001.

Howard P. Anderson, Jr.
Hearing Examiner